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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

TRUSTEES OF THE U.A. LOCAL 393
PENSION FUND AND THE U.A. LOCAL 393
HEALTH AND WELFARE TRUST FUND,

Plaintiffs,

vs.

COOL BREEZE REFRIGERATION INC.,

Defendant.

CASE NO.

**COMPLAINT FOR MONIES DUE AND
INJUNCTIVE RELIEF**

1. This action arises under Sections 502 and 515 of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. §§ 1132 and 1145, and Section 301 of the Labor-Management Relations Act, 29 U.S.C. § 185. Jurisdiction and venue are conferred on this Court by 29 U.S.C. §§ 185(a), 1132(a), (e) and (f).

2. Plaintiff Trustees are ERISA fiduciaries of the U.A. Local 393 Pension Fund and the U.A. Local 393 Health and Welfare Trust Fund. The foregoing (hereinafter called "employee benefit plans") are "employee benefit plans" within the meaning of ERISA Section 3(3), as amended, 29 U.S.C. § 1002(3). The plans are administered in the County of Santa Clara, California. Venue is proper in this district under 29 U.S.C. § 1132 (e) (2).

3. Plaintiffs are the assignees of the claims of the following entities (hereinafter called "funds") which are due monies according to a collective bargaining agreement: (1) Plumbing

1 Industry Non-Profit Corporation (for apprentice and journeyman training as provided by the
2 collective bargaining agreement), (2) Contract Administration Fund (for contract administration
3 expenses as provided by the collective bargaining agreement), (3) Labor Management Cooperation
4 Trust (for industry promotion as provided by the collective bargaining agreement), (4) U.A. Local
5 393 Vacation Account Fund (for vacation contributions for the employees as provided by the col-
6 lective bargaining agreement), and (5) U.A. Local 393 Job Protection Fund.

7 4. Defendant Cool Breeze Refrigeration Inc. is and was at all times relevant herein a
8 Nevada corporation doing business in the State of California, and engaged in an industry affecting
9 commerce. Said Defendant's principal place of business is located in the City of Reno, Nevada.

10 5. Defendant Cool Breeze Refrigeration Inc. entered into a collective bargaining
11 agreement with U.A. Local 393, a labor organization representing employees in an industry
12 affecting commerce. The collective bargaining agreement required that said Defendant timely
13 submit contributions on a monthly basis to the "employee benefit plans" and the "funds" certain
14 fixed amounts on behalf of all employees of Defendant who performed work covered by the
15 collective bargaining agreement or for whom contributions were otherwise required.

16 6. The collective bargaining agreement further required that defendant became bound to
17 the terms of the trust agreements governing the employee benefit plans described above. Both the
18 collective bargaining agreement and such trust agreements further required that defendant submit to
19 Plaintiffs monthly reports indicating the amount of covered work performed by defendant, and the
20 resulting contributions that were due.

21 7. Beginning with the month of September 2015, Defendant submitted a monthly report
22 but did not submit the amount owing for that month, nor for the following months. Said failure and
23 refusal to submit the amounts owing violates the collective bargaining agreement to which it is a
24 party, the Trust Agreements and provisions governing the "employee benefit plans" and the "funds,"
25 and the requirements of ERISA.

26 8. Pursuant to the collective bargaining agreement and the Trust Agreements referenced
27 above, and pursuant to ERISA, there is now due and owing from Defendant to Plaintiffs, certain
28 principal contributions, for the work months of September and October 2015 which Plaintiffs are

1 informed and believe amount to at least \$24,232.00. In addition to said contributions Defendant now
 2 owes twenty percent (20%) of the principal amount due as liquidated damages, plus interest on the
 3 principal and liquidated damages at the rate of 10 percent (10%) per annum.

4 9. Plaintiffs are informed and believe Defendant is likely to continue to amass further
 5 delinquencies after the filing of this suit. In that event, Defendant will owe additional amounts for
 6 those new months, plus the other associated liquidated damages and interest.

7 10. In addition to the amounts identified above, pursuant to Section 502(g)(2) of ERISA,
 8 29 U.S.C. § 1132(g)(2) and pursuant to the terms of the collective bargaining agreement, Plaintiffs
 9 are further entitled to recover reasonable attorneys' fees and costs incurred herein.

10 11. A copy of this complaint is being served upon the Secretary of Labor and the Secretary
 11 of the Treasury by certified mail as required by 29 U.S.C. §1132(h).

12 **WHEREFORE**, Plaintiffs pray that this Court grant judgment in favor of Plaintiffs and
 13 against Defendant as follows:

14 1. An award of damages that have accrued before the filing of this Complaint, and that
 15 may accrue subsequent to its filing, which is comprised of:

16 A. All fringe benefit contributions, and other amounts as described above that are
 17 contractually required;

18 B. Liquidated damages and interest on amounts dues as allowed by the collective
 19 bargaining agreement or by ERISA;

20 C. Any audit fees incurred by plaintiffs;

21 D. All of the costs of collection, including: (i) reasonable attorney's fees, and
 22 (ii) the costs of this action; and

23 2. Award to Plaintiffs such other legal and equitable relief as the Court deems
 24 appropriate.

25 Dated: April 25, 2016

WYLIE, McBRIDE, PLATTEN & RENNER

27 By: /s/ Mark Renner

MARK S. RENNER

Attorneys for Plaintiff Trustees